

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

September 7, 2006

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, September 7, 2006, at 2:23 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Harold Warner Jr., Chair; Darrell Downing Vice-Chair; John W. McKay Jr.; M.S. Mitchell (in @ 2:35); Don Anderson; Bud Hentzen (in @ 2:26); Ronald Marnell; Hoyt Hillman; Morris K. Dunlap and Michael Gisick. Bob Aldrich; Elizabeth Bishop; Bill Johnson and Denise Sherman were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; David Barber, Advanced Plans Manager; and Maryann Crockett, Recording Secretary.

1. Approval of August 17, 2006 MAPC minutes.

MOTION: To approve the August 17, 2006, MAPC meeting minutes.

MARNELL moved, **DUNLAP** seconded the motion and it carried (8-0).

2. Election of Chairman and vice Chairman for upcoming year.

MOTION: To defer elections until next meeting.

WARNER moved, **DUNLAP** seconded the motion and it carried (8-0).

❖ **SUBDIVISION ITEMS**

3. Consideration of Subdivision Committee recommendations from the meeting of August 24, 2006.

3-1. SUB 2006-74: One-Step Final Plat – PRICE TRANSPORTATION ADDITION, located on the north side of MacArthur Road and west of Broadway.

NOTE: This is an unplatted site located within the City. The site has been approved for a zone change (ZON 2005-56) from SF-5, Single-Family Residential to LI, Limited Industrial subject to platting.

STAFF COMMENTS:

- A. City water services are available to serve the site. The applicant shall guarantee the extension of sanitary sewer. Fees in lieu of main assessment may be included in the petition. **A utility easement for the sewer extension is needed.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The detention pond should be located in a drainage reserve.**
- D. Since drainage will be directed onto I-235, a letter shall be provided from KDOT indicating their agreement to accept such drainage.
- E. **Traffic Engineering** needs to comment on the access controls. The plat proposes one opening along MacArthur Road. **The opening shall be platted at least 200 feet from Waco.**
- F. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. **GIS** needs to comment on street names. **The spelling of MacArthur Road shall be corrected. "Gold Street" shall be labeled as Gold. "So. Waco" shall be labeled as "Waco".**
- I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve, subject to staff recommendation.

DUNLAP moved, **MARNELL** seconded the motion and it carried (8-0).

-
- 3-2. **SUB2006-50: One-Step Final Plat – OAK CLIFF ESTATES 6th ADDITION**, located west of Maize Road on the north side of Maple.

NOTE: This is a replat of Oak Cliff Estates and Oak Cliff Estates 4th Addition. This plat is subject to the Oak Cliff Estates Community Unit Plan (DP-104). A duplex development is proposed.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. **A sewer layout is needed.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan has been approved. Lot 1, Blk 3 needs to have a drainage easement extended across the backyard. The platlor's text shall include language regarding the maintenance responsibility of the future stormwater system to be located within the drainage easements.**
- D. The off-site access easements providing access to this site from Maple and Maize Road shall be provided.
- E. A covenant shall be submitted regarding Reserve A being platted for private drive purposes, which sets forth ownership and maintenance of the private drive. The platlor's text shall reference the platting of the reserve for private drive purposes along with ownership and maintenance responsibilities.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- G. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.

- H. Reserve C that is referenced in the text is not denoted on the face of the plat.
- I. **City Fire Department** has requested a turnaround for the private drive adjoining Lot 1, Block 3.
- J. Building setbacks for Lot 2, Block 2, Lot 3, Block 3, and Lot 12, Block 1 should be parallel with the front property line.
- K. "Lots, Blocks, and Reserves" shall be referenced in the plat's text.
- L. The perimeters of the proposed lots shall match the perimeters of the CUP parcel boundaries. A CUP adjustment will need to be approved.
- M. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- N. **GIS** shall meet with applicant regarding addressing. **The applicant proposes one address for the site with separate unit numbers for the duplexes.**
- O. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- X. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Y. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve, subject to staff recommendation.

DUNLAP moved, **MARNELL** seconded the motion and it carried (8-0).

-
- 3-3. **SUB2005-88: Final Portion of Overall Preliminary Plat – SOUTHWEST PASSAGE ADDITION**, located on the south side of Pawnee and west of 119th Street West.

NOTE: This final plat is the north portion of the overall preliminary plat representing the first phase of development. The street layout represents the same configuration as for this portion in the preliminary plat. The lot layout contains one fewer lot.

This is an unplatted site located in the City. The site is located within the 100-year floodplain.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of City water and sanitary sewer (main and lateral) to serve the lots being platted.

The applicant shall check with **Water & Sewer Department** regarding timing of the sewer main, as it is associated with the construction of the new Mid-Continent treatment plant. **The site will be serviced by a temporary lift station.**

- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **City Engineering has approved the drainage plan subject to the following: Submittal of a cross-lot drainage agreement from the adjacent landowner to the east; addition of minimum pad elevations to the plat; drainage easements platted in various rear lots as required by City Engineering; and grading plan revisions.**

In accordance with the Subdivision Committee's request, the FEMA Map Revision (COLMR) has been approved.

- D. **County Public Works** advises that the City of Wichita needs to annex Pawnee to west line of plat.
- E. The plat proposes one street opening along Pawnee. **Access controls are approved.**
- F. Monument needs to be one-way street.
- G. **GIS** needs to comment on the street names. **Red Rock needs to be labeled east of the Monument intersection.**
- H. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- I. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- K. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within 30 days after approval by the City Council and/or County Commission.

- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- W. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve, subject to staff recommendation.

DUNLAP moved, **MARNELL** seconded the motion and it carried (8-0).

Hentzen in 2:26 pm

❖ **PUBLIC HEARINGS – VACATION ITEMS**

4-1. VAC2006-30: Request to Vacate a Portion of a Platted Setback.

APPLICANT/OWNER: Marilyn J Patry

AGENT: Terra Tech Land Surveying c/o Michele Webster

LEGAL DESCRIPTION: The west 15-feet of the platted 30-foot setback, that runs parallel to the west lot line of Lot 1, Block 2, Louis Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located west of Hydraulic Avenue, on the southeast corner of MacArthur Road & Ellis Avenue (WCC #III)

REASON FOR REQUEST: Additional room for development

CURRENT ZONING: Site, abutting eastern and southern properties and adjacent eastern property are zoned "SF-5" Single-family Residential. Adjacent northern properties are zoned "LC" Limited Commercial and "MF-29" Multi-family Residential.

The applicant proposes to vacate the described portion of the platted 30-foot setback on Lot 1, Block 2, Louis Addition, which is a key corner lot. This case is associated with SUB2006-64, a lot split of Lot 1, Block 2, Louis Addition. The proposed lot split will create Parcels 1 (subject site) & 2. Parcel 1 is the smaller western portion of Lot 1 and remains a key corner lot. The short side of Parcel 1 is on the Ellis Avenue side, where the platted 30-foot setback becomes a street side yard setback, while the MacArthur Road side becomes the front of the lot, per the UZC. The UZC requires a minimum of a 15-foot street side yard setback (the Ellis side) and 25-foot front yard setback (the MacArthur side). The applicant's request is to replace what was a platted 30-foot front setback with the UZC's minimum street side yard set back. There is a platted 10-foot setback along the MacArthur side of the site that will be eliminated/vacated by a 10-foot street dedication on the Lot Split. There are no platted easements, manholes, sewer line or water located in the subject platted setback. The Louis Addition was recorded with the Register of Deeds October 22, 1948.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of the portion of the platted 30-foot street side yard setback, as described and with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time August 17, 2006 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted street side yard setback and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted 30-foot street side yard setback, described in the petition should be approved with conditions:
- (1) Prior to final action by the WCC, complete the Lot Split and have it recorded with the Register of Deeds. Provide Planning Staff with a copy of the recorded Lot Split. Staff will use the recorded Lot Split for the new legal description of the vacation request
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
 - (3) All improvements shall be according to City standards and at the applicant's expense.

- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Prior to final action by the WCC, complete the Lot Split and have it recorded with the Register of Deeds. Provide Planning Staff with a copy of the recorded Lot Split. Staff will use the recorded Lot Split for the new legal description of the vacation request
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- (3) All improvements shall be according to City standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve, subject to staff recommendation.

MARNELL moved, **HILLMAN** seconded the motion and it carried (9-0).

4-2. VAC2006-31: Request to Vacate a Portion of Public Right-of-way.

APPLICANT/OWNER: Joe Self Jr., Real Estate, LLC

LEGAL DESCRIPTION: Generally described as a portion of the Kellogg Street frontage running parallel to the north lot lines of Lot 1, Block 1, Lankin Addition and Lot 1, Block 1, Lankin Second Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located on the south side of Kellogg Street and east of the Kellogg - I-35 interchange.

REASON FOR REQUEST: Extend property line of Joe Self Chevrolet Car Sales.

CURRENT ZONING: The subject site is zoned "GC" General Commercial and is within CUP DP-38. Abutting and adjacent properties are zoned "LC" Limited Commercial (north, east and west), "GO" General Office (south) and "SF-5" Single-family Residential (north).

The applicants are requesting consideration to vacate a portion of Kellogg Street/ROW as described. There have been recent improvements to this portion of Kellogg Avenue and Kellogg Street. There are utilities, drainage, manholes, sewer and water lines in this portion of the public ROW. The Lankin Addition was recorded with the Register of Deeds May 27, 1969. The Lankin Second Addition was recorded with the Register of Deeds February 4, 1972.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the described portion of public right-of-way, subject to the following conditions:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time August 17, 2006 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of public right-of-way and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of public right-of-way, described in the petition should be approved with conditions:
1. Vacate only that portion of the Kellogg Street ROW as approved by the City of Wichita Traffic Engineer. Retain the entire vacated ROW as a utility – storm water easement. Provide Planning Staff with a legal description of the vacated ROW on a Word document, via e-mail, to be used on the vacation order and petition.

2. Provide Public Works with a survey locating all utilities, including drainage, within the proposed vacated right-of-way.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
4. All improvements shall be the applicant's responsibility, at the applicant's expense and shall be according to City Standards.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate only that portion of the Kellogg Street ROW as approved by the City of Wichita Traffic Engineer. Retain the entire vacated ROW as a utility – storm water easement, or as needed. Provide Planning Staff with a legal description of the vacated ROW on a Word document, via e-mail, to be used on the vacation order and petition.
2. Provide Public Works with a survey locating all utilities, including drainage, within the proposed vacated right-of-way.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
4. All improvements shall be the applicant's responsibility, at the applicant's expense and shall be according to City Standards.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve, subject to staff recommendation.

MARNELL moved, **HILLMAN** seconded the motion and it carried (9-0).

4-3. VAC2006-32: Request to Vacate a Portion of a Portion of Platted Access Control.

APPLICANTS/OWNER: Brazos Restaurant Acquisition Corp.

AGENT: PEC c/o Rob Hartman

LEGAL DESCRIPTION: Generally described as a portion of the platted complete access control (onto 13th Street North) running parallel to the north lot line of Lot 10, Block 1, located on the east lot line of said lot, all in the Gateway Center 2nd Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located south of 13th St N & west of K-96 (WCC District #II)

REASON FOR REQUEST: Right-in only access for new development

CURRENT ZONING: The site and the abutting and adjacent properties are zoned "LC" Limited Commercial. The site is part of CUP DP-239

The applicant has applied for the vacation of the described portion of platted complete access control to allow a proposed right-in access onto Lots 10 & 11, Gateway Center 2nd Addition. The access would begin at the common lot line of said lots, which is approximately 164.67-feet from the 13th Street North - K-96 interchange (east) and 205.46-feet (minus the width of the proposed access) from a full movement drive (west). The Gateway Center 2nd Addition was recorded with the Register of Deeds April 13, 2005. North of the site, across 13th Street North there is (a) The Chapel Hill 2nd Addition (recorded May 5, 2003), which has approximately 356-feet of complete access control/13th Street frontage, with platted public ROW for access located parallel to the east side of Lot 1, Block 1 of said subdivision. And (b) the Dillon 12th Addition (recorded June 24, 1997), which has approximately 1,560-feet of 13th Street frontage, with 6 points of access onto 13th, one of which is a major full movement access point.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the described platted access control, per the approval of the Traffic Engineer, with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time August 17, 2006 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted complete access control and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted complete access control described in the petition should be approved with conditions:
1. Vacate that portion of platted access control along the site's 13th Street North frontage, as approved by the Traffic Engineer to establish right-in only access across the subject site. Provide Planning Staff with a legal description of the vacated portion of complete access control on a Word document, via e-mail, to be used in the vacation order and petition.
 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Retain all easements
 3. All improvements shall be the responsibility of the applicants, at the applicant's expense and shall be according to City Standards, including any driveways from private property onto public ROW.
 4. The site is in CUP DP-239, if necessary apply for an adjustment to the CUP to reflect the change in access.
 5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate that portion of platted access control along the site's 13th Street North frontage, as approved by the Traffic Engineer to establish right-in only access across the subject site. Provide Planning Staff with a legal description of the vacated portion of complete access control on a Word document, via e-mail, to be used in the vacation order and petition.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Retain all easements
3. All improvements shall be the responsibility of the applicants, at the applicant's expense and shall be according to City Standards, including any driveways from private property onto public ROW.
4. The site is in CUP DP-239, if necessary apply for an adjustment to the CUP to reflect the change in access.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve, subject to staff recommendation.

MARNELL moved, **HILLMAN** seconded the motion and it carried (9-0).

❖ **PUBLIC HEARINGS**

5. **Case No.: ZON2006-29** – Gregory Cooper (owner/agent) Request Zone change request from "SF-5" Single-Family Residential to "TF-3" Two-family residential on property zoned as;

Lots 15 and 16, Block 2, Eureka Gardens Addition, Sedgwick County, Kansas. Generally located West side of McComas ½ block south of Taft Avenue (529 S. McComas).

BACKGROUND: The application area is Lots 15 and 16, Block 2, Eureka Gardens located south of West Taft Avenue and west of South McComas Street. The applicant states that there was a home on site up until about 15 years ago, until it was demolished. He has owned the two lots for the last seven years and wants to build a duplex on each lot. The application area is approximately ½ acre in size.

The land use along the two block faces along McComas between Taft and Kellogg is overwhelmingly single-family residential except for the southern end of the block where there is a hotel located on LC Limited Commercial zoning. The remainder of the two block faces are zoned SF-5 Single-family Residential. The western half of the block containing the application area is almost evenly split between a mix of SF-5 Single-family Residential and LC Limited Commercial zoning, and a mix of single-family and non-residential uses.

CASE HISTORY: Eureka Gardens Addition was platted in June 1941.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5 Single-family Residential & CU-516 Accessory Apartment; residential
SOUTH: SF-5 Single-family Residential; residential
EAST: SF-5 Single-family Residential; residential
WEST: SF-5 Single-family Residential and LC Limited Commercial; residential

PUBLIC SERVICES: Public services are available.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* depicts this site as appropriate for "urban residential."

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The predominate zoning in the area is SF-5 Single-family Residential and the predominate use is residential, however there are lots located further to the south and west that are zoned and used for office or commercial uses. There is a lot to the north of the site that is approved for an "accessory apartment." This particular block may be in a transition state given the LC zoning located to the south and west.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 Single-family Residential and could be used to develop two single-family residences, which would fit the character of the two block faces fronting McComas. However, it may be easier to rent duplex units in this area than it would be to sell single-family homes.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval will allow the construction two duplex units which are not in character with existing residential uses in the immediate area.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: New construction would better utilize existing infrastructure. Denial of the request could presumably cause a loss in economic return to the applicant.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The proposal is in conformance with adopted plans since the *2030 Wichita Functional Land Use Guide* depicts this site as appropriate for "urban residential," which includes duplex units as being appropriate housing styles. Duplex units would also provide a mix of housing types, which the plan supports.
6. Length of time the property has remained vacant as currently zoned: According to the applicant the lots have been vacant for 15 years.
7. Impact of the proposed development on community facilities: Existing facilities are capable of meeting the project's anticipated needs.

MOTION: To approve, subject to staff recommendation.

DOWNING moved, **McKAY** seconded the motion and it carried (9-0).

6. **Case No.: ZON2006-30** – Greenwich Village, LLC (Han Diec) / Kenneth Lerman Request Zone change from "GO" General Office to "LC" Limited Commercial on property described as;

Lot 2, Lyman Ray 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located South of Waterman and east of Greenwich (11313 East Waterman).

BACKGROUND: The application area is vacant, contains 1.89 acres and is located south of East Waterman Street and approximately 365 feet east of Greenwich Road. The subject lot is zoned GO General Office and is undeveloped. In addition to the subject lot, the applicant owns the two lots to the west of the application area. These two lots located west of the application area are zoned LC Limited Commercial and are developed with retail commercial uses. The owner desires to have his ownership zoned uniformly.

The application area has been viewed as a buffer tract located between the residential uses located to the east and south and the commercial uses located to the west of the application area. The larger area located between Waterman, Ellison, Lewis and Greenwich may be in transition and the two manufactured home parks located north of Waterman and east of Ellison create a

uniform zoning and land use boundary along the north and east. Pressure for nonresidential zoning will probably increase from the Kellogg and Greenwich corridors, which have commercial zoning and commercial uses.

CASE HISTORY: The area was annexed by the City in the 1960s. The application area was rezoned from AA Single-family Residential (SF-5 Single-family Residential) to BB Office (GO General Office) in 1979 with the approval of case number Z-2153. The site was replatted to Lyman Ray 2nd Addition in 1979.

ADJACENT ZONING AND LAND USE:

NORTH: MH Manufactured Housing; manufactured home park
SOUTH: SF-5 Single-family Residential; residential
EAST: SF-5 Single-family Residential; residential
WEST: LC Limited Commercial and GC General Commercial; strip retail commercial and mini warehouse

PUBLIC SERVICES: Sewer and water are available. East Waterman is a paved local street with 60 feet of right-of-way.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" depicts this site as appropriate for "urban residential" uses.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: There is a mix of zoning – Limited Commercial, General Commercial, Single-family and Manufactured Home – and uses, residential and nonresidential. This neighborhood is beginning to experience increased pressure for more intensive zoning driven by the Kellogg and Greenwich commercial corridors and the age of the housing.
2. The suitability of the subject property for the uses to which it has been restricted: From a zoning standpoint, the GO General Office district permits a significant number of permitted uses that potentially could be economically viable, including: residential (single-family through multi-family), community assembly, church, convalescent care, medical services, general office, hotel/motel, broadcast/recording studio or funeral home. From the applicant's view, it may be easier to develop and market if his entire ownership is all one zoning district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request would permit retail uses to be located deeper into the neighborhood than is currently permitted along Waterman. Code required buffers such as compatibility setback, height, dumpster placement and screening, and landscaping standards will mitigate potential impacts of increased traffic and extended business hours when compared to most office uses.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would presumably pose a loss of economic opportunity to the applicant. Approval would increase the square footage of retail zoned land available to the community.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is inconsistent with adopted plans as the "2030 Wichita Functional Land Use Guide" depicts this site as appropriate for "urban residential" uses.
6. Length of time the property has remained vacant as zoned: The property is vacant, but staff does not have a good way of determining if the vacancy is a function of market forces or if the property has not been marketed.
7. Impact of the proposed development on community facilities: Anticipated impacts are accounted for by existing or proposed improvements.

MOTION: To approve, subject to staff recommendation.

DOWNING moved, **McKAY** seconded the motion and it carried (9-0).

7. **Case No.: ZON2006-31** – D. Lemk, LP (Lucille M. Schauf) (owner), Leewood Homes c/o Joe Lee (contract purchaser), Baughman Company, PA c/o Terry Smythe (agent), Insite Real Estate Group c/o Kurt Robertson (agent) Request Zone change from "GO" General Office to "LC" Limited Commercial on property described as;

That part of Lot 3, Block 1, The Ritz, an Addition to Wichita, Sedgwick County, Kansas described as follows: Beginning at the most Southerly Southeast Corner of said Lot 3; thence South 89 degrees 18'12" West along the South line of said Lot 3, 519.95 feet; thence North 00 degrees 48'50" West, 230.21 feet; thence North 50 degrees 22'10" East, 58.31 feet; thence North 88 degrees 57'40" East, 284.62 feet to a point on the Northeast line of said Lot 3, said Northeast line being a curve to the left; thence Southeasterly and Easterly along said curve, having a central angle of 30 degrees 56'17" and a radius of 504.62 feet, an arc distance of 272.48 feet, (having a chord length of 269.18 feet bearing South 67 degrees 02'36" East), to a corner in said Lot 3; thence South 00 degrees 41'48" along the East line of said Lot 3, 104.44 feet to a deflection corner in said East line; thence South 44 degrees 18'12" West along the Southeast line of said Lot 3, 79.36 feet to the point of beginning. Generally located Northwest corner of 37th Street North and Sweet Bay Street.

BACKGROUND: The applicant requests a zone change from "GO" General Office to "LC" Limited Commercial on 3.11 acres generally located on the northwest corner of 37th Street North and Sweet Bay Street, approximately one-third mile west of Rock Road.

The property is part of Lot 1, Ritz Addition, which is zoned GO and developed with a large day care facility that is closed. The day care center is being marketed for a different reuse allowed by the GO zoning district. An apartment complex on property zoned "MF-29" Multi-family Residential is located west of the day care facility. Willowbend, a residential/golf course community zoned "SF-5" Single-family Residential, is located north of the Ritz Addition. A community unit plan, DP-155 W.D.C. Parcel 5A, is located east of the request and is developed with freestanding office building closest to the application and a new retail strip center along 37th Street North. The property to the southeast is zoned MF-29 and developed with a large garden apartment complex. DP-122 W. D. C. #6 Parcel No. 104 is approved for LC but is a vacant 12-acre tract.

CASE HISTORY: The Ritz Addition was recorded December 26, 1989. The property was rezoned from "R-6" General Residence District to "BB" Office District for the express purpose of allowing the child care facility because this was the first available zoning district that allowed child care centers by right under the old zoning code for City of Wichita. The BB district converted to GO when the Unified Zoning Code was adopted in 1996.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5	Willowbend single-family residential and golf course
SOUTH: MF-29, LC	Apartment development, vacant
EAST: LC	Office, retail strip center
WEST: GO, MF-18, SF-5	Day care center (closed), apartment complex

PUBLIC SERVICES: 37th Street North provides access to the property. Current traffic counts on 37th Street North are 11,000 vehicles per day. This is projected to increase to 18,000 vehicles per day in 2030.

An SF-5 reserve strip separates the tract from direct access to Sweet Bay Street. The plat limited Lot 3 to two points of access and one already has been established on the portion of Lot 3 not included in this rezoning request. The distance between the drive opening on Lot 3 and Sweet Bay Street is approximately 700 feet, which is below the amount required for two full movement openings. This would restrict the rezoning tract to a right-in/right-out opening.

All other public services are available.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended May 2005" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "institutional" use. The proposed CUP does not conform to the Land Use Guide. The zone change did not include any protective overlay or community unit plan provisions in support of planned commercial use as recommended by objectives/strategies and land use guidelines of the Comprehensive Plan.

RECOMMENDATION: Rezoning this property to LC would move the boundary for LC uses on the north side of 37th Street North to within 500 feet of the mid-mile point. Traditionally, commercial development has not been encouraged at mid-mile points or to strip out the frontage along the arterials. As zoned today, the GO district matches the office use of the properties to the east and west, and poses less conflict with the Willowbend development abutting the property on the north. The zone change would allow more intensive uses including large restaurants, convenience stores, auto repair, pawn shops, etc. Further, 1) considering the 12 acres to the southwest has been zoned LC but remained vacant since 1982 and 2) the property to the southeast closer to Rock Road was developed with multi-family residential, LC is not been shown to be in high demand in other sites in close proximity. Based upon information available prior to the public hearings, planning staff recommends the zone change from GO to LC be DENIED. However, should MAPC choose to grant a rezoning of this tract, it is recommended that the zone change should be limited to "NR" Neighborhood Retail in order to minimize the detrimental impact on surrounding properties.

This recommendation is based on the following findings.

1. The zoning, uses and character of the neighborhood: The property is part of Lot 1, Ritz Addition, which is zoned GO and developed with a large day care facility that is closed. The day care center is being marketed for a different reuse allowed by the GO zoning district. An apartment complex on property zoned "MF-29" Multi-family Residential is located west of the day care facility. Willowbend, a residential/golf course community zoned "SF-5" Single-family Residential, is located north of the Ritz Addition. A community unit plan, DP-155 W.D.C. Parcel 5A, is located east of the request and is developed with freestanding office building closest to the application and a new retail strip center along 37th Street North. The property to the southeast is zoned MF-29 and developed with a large garden apartment complex. DP-122 W. D. C. #6 Parcel No. 104 is approved for LC but is a vacant 12-acre tract.

2. The suitability of the subject property for the uses to which it has been restricted: The property to the east and west is developed with uses allowed in the current zoning of GO, which indicates the appropriateness of the current zoning classification.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Full-scale unrestricted LC development allows uses, signage and design that could be incompatible with the residential uses to the north and southeast.
4. The length of time the subject property has remained vacant as zoned. The property was part of the large day care center site, so was not considered vacant until this use was closed.
5. The relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant. If the property remains zoned GO, the applicant retains the value of general office use, but the effects of the zone change would be to impact the value of the residential properties to the north in particular. It is difficult to understand the hardship in developing the parcel in the same manner as the properties to the east and west of the site.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide, as amended May 2005" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "institutional" use. The proposed CUP does not conform to the Land Use Guide. The zone change did not include any protective overlay or community unit plan provisions in support of planned commercial use as recommended by objectives/strategies and land use guidelines of the Comprehensive Plan.
7. Impact of the proposed development on community facilities: Only a right-in/right-out opening on 37th Street North conforms to the access management policy guidelines since the full movement opening is already established by the property to the west.

DONNA GOLTRY, Planning Staff, presented the staff report. She relayed that the applicant had proposed an alternative zone change to Neighborhood Retail instead of Limited Commercial. She said staff was agreeable to that request.

MOTION: To approve zone change to Neighborhood Retail.

HILLMAN moved, **DOWNING** seconded the motion and it carried (9-0).

Mitchell in at 2:36 pm

8. **Case No.: ZON2006-32** – Dr. Raymond Matthew (applicant/owner) Ruggles & Bohm c/o Chris Bohm (agent) Request County zone change from "SF-20" Single-family Residential to "NO" Neighborhood Office on property described as;

The West 220.37 feet of the North 434.63 feet of the South 514.63 feet of the East half of the Southwest Quarter, Section 1, Township 27 South, Range 2 West of the 6th Principal Meridian, Sedgwick County, Kansas. Generally located North side of 21st Street North, approximately ¼ mile east of 135th Street West.

BACKGROUND: The applicant is requesting "NO" Neighborhood Office zoning on the 2.20-acre Sedgwick County tract. The site is currently zoned "SF-20" Single-family Residential and is an agricultural field. The applicant proposes to develop the site for office/medical office use. FEMA maps show that a portion of the site is in the floodway and the 100-year flood plain. If this request is approved, appropriate minimum pad elevations and floodway reserves will need to be established.

Properties abutting the site's north and east sides are zoned "SF-20" and are agricultural fields. The Cowskin Creek and its drainage define the outer edges of the properties east and north of the site. The property abutting the east side of the site was approved for "NR" Neighborhood Retail zoning with a protective overlay, subject to platting (ZON2004-00009) by the MAPC, April 22, 2004. This site has not been developed nor has it been platted. Properties further east of the site up to 135th Street West are zoned "SF-20" and are developed as a church and single-family residential. There is a zone change request (ZON2006-33) on one of these properties further east of the site along 21st, which is scheduled to be considered by the MAPC, September 21, 2006. Properties south of the site, across 21st, are zoned "GO" General Office (ZON2005-30) and "SF-20". The "GO" site is currently being developed as a medical office. Eberly Farms (CU-281) is also located south of the site. The recently completed Northwest YMCA (DP-276, located on the northwest corner of 135th St West & 21st Street North, zoned "LC" & SF-5") is the largest nonresidential development in the area. From the site, the Wichita city limits are to the east, west and southwest of the site, generally running parallel to the Cowskin Creek's drainage down to 13th Street North.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: "SF-20"	agricultural fields
SOUTH: "SF-20", "GO"	outdoor recreation/large-lot residential, medical office
EAST: "SF-20"	agricultural fields, Cowskin Creek, city limits
WEST: "SF-20", "NR"	agricultural fields, church, single-family residential,

PUBLIC SERVICES: This site is in the County and on-site services are available. Municipal sewer is located along the south side of 21st Street. Municipal water is also located along the south side of 21st Street. 21st Street is a paved two-lane facility that is depicted on the 2030 "Transportation Plan" as being a 4-lane arterial. There is approximately 80-feet of half-street right-of-way at this location.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide", as amended in May of 2005, of the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as appropriate for "urban development mix", as being within the "Wichita 2030 Urban Growth Area" and as a potential future park site. The "urban development mix" category indicates (at this location) a strong likelihood of future urban residential uses, institutional uses, local commercial uses and parks and open space use. The "Wichita 2030 Urban Growth Area" category identifies the site as being on the urban fringe (suburban), but within the projected growth area of Wichita and being in an area where the extension of municipal public services and infrastructure should be focused. The site's proximity to the Cowskin Creek makes it appropriate for consideration as future parkland. The requested "NO" zoning accommodates very low intensity office development and other complimentary land uses that are generally appropriate near residential development. The "NO" zoning fits into the "urban development mix" category at this site, especially when considered with the past rezoning of properties from "SF-20" to "GO" (ZON2006-30) and "NR" (ZON2004-00009) in the immediate area. City water and sewer are also available to support the development allowed by the requested "NO" zoning. This site is significantly impacted by the Cowskin Creek floodplain, thus its designation as a possible park or open space. This is probably the major issue in it being developed as a residential or non-residential use.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within 1-year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Properties in the area around the application area are zoned "SF-20", "NR", "GO" and "LC" and used for a variety of uses: medical offices, church, outdoor recreation, YMCA, agricultural and large-lot residential. Currently the character of this area is suburban, and now that public sewer and water services are available, more intense development is expected and is in fact happening: medical offices across 21st and the YMCA.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "SF-20". The "SF-20" district is primarily a suburban residential district that also allows a few complimentary nonresidential uses. The site could be developed as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed rezoning would have a minimal affect on nearby property, some which have similar nonresidential zoning. The issue of drainage will be addressed during the required platting of the site and in fact would have to be addressed for development of the site as currently zoned. Code requirements for compatibility setbacks, screening, landscaping, and signage limitations should minimize the impact on residential development.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide depicts this site as appropriate for "urban development mix" uses and within the City of Wichita's 2030 "urban growth area." Consistent with that designation, public sewer and water services are available. The purpose statement for the "NO" district states that this district is intended to accommodate office development and other complementary land uses that serve and are generally appropriate near residential neighborhoods. The site conforms to the Comprehensive Plan and policies
5. Impact of the proposed development on community facilities: Existing or planned facilities are in place to adequately address the proposed development's needs. Drainage is the issue for any development of the site.

BILL LONGNECKER, Planning Staff, presented the staff report. He stated that he had received an e-mail from the applicant's agent, wherein they offered to provide a protective overlay for the project.

CHRIS BOHM, Ruggles and Bohm, P.A. - explained that his client, Dr. R.A. Matthews, and his neighbor to the south, Ray Boese, had agreed to some conditions on the zone change case including: elimination of residential uses; golf course; group home (limited and general); parks and recreation; and automated teller machine. He said they were willing to provide a protective overlay on the project to restrict these uses.

DR. R.A. MATTHEWS, 3108 W. 13th St. – gave a brief history of his residence in the area. He stated that they would like to use the land for either dental or medical offices. He related several humorous anecdotes concerning his past association with Commissioner M.S. Mitchell concerning flooding issues.

RAY BOESE, 13414 W. 23rd St., North – stated that he agreed with the protective overlay of the area and the use of the land for medical services or something in the medical field. He expressed concern regarding entrance and exit to property. He explained that to the east there was a hill; and to the west, the YMCA has brought more traffic into the area. He asked the commission to take safety of ingress and egress from the driveway into consideration. He concluded by commenting that Dr. Matthews keeps moving dirt into the flood plains and pushing more development onto the flood plain.

MOTION: To approve, subject to the protective overlay and staff recommendation.

MARNELL moved, **McKAY** seconded the motion and it carried (10-0).

9. **Case No.: CON2006-33** – Fairmount LLC, c/o Rob Ramseyer (applicant) Baughman Company, PA, c/o Russ Ewy Request Conditional Use for a community swimming pool in a platted reserve zoned "SF-5" Single-family Residential on property described as;

That part of Reserve "B", The Fairmont, an Addition to Wichita, Sedgwick County, Kansas described as follows: Beginning at the most northerly corner common to said Reserve "B" and Reserve "F" in said The Fairmont; thence S00°52'37"E along the west line of said Reserve "B", 120.00 feet; thence N89°07'23"E, 170.00 feet; thence N00°52'37"W parallel with the west line of said Reserve "B", 136.61 feet to a point on the north line of said Reserve "B"; thence S89°07'23"W along the north line of said Reserve "B", 33.26 feet to the P.C. of a curve to the left in said north line; thence westerly along said curve, having a central angle of 11°55'39" and a radius of 468.00 feet, an arc distance of 97.43 feet, (having a chord length of 97.25 feet bearing S83°09'33"W), to the P.R.C. of a curve to the right in said north line; thence westerly along said curve, having a central angle of 05°22'44" and a radius of 432.00 feet, an arc distance of 40.55 feet, (having a chord length of 40.54 feet bearing S79°53'06"W), to the point of beginning. Generally located Approximately ½ mile north of 21st Street North, on the southwest corner of Mainsgate Street and 127th Street East.

BACKGROUND: The applicant requests a Conditional Use to permit a neighborhood swimming pool, with a playground and associated parking on a 0.52-acre portion of the platted Reserve B, the Fairmont Addition. The Fairmont Addition is also platted for 24, undeveloped, "SF-5" Single-family Residential zoned single-family lots. The "SF-5" zoned Reserve B is reserved for landscaping, sidewalks, open space, lakes, drainage purposes, utilities as confined to easements and pipelines as confined to easements. The plat also states that Reserve B shall be owned and maintained by the homeowners of the association for the addition. A neighborhood swimming pool and its associated uses can be considered as a conditional use in a platted reserve, per the standards of the Unified Zoning Code (UZC, Art.III, Sec.III-D, aa) and the Subdivision Regulations (Art.7, Part 2, 7-205). A scaled detailed site plan showing the location of the neighborhood pool, and all other proposed uses including club house, outside activity areas, mechanical equipment, parking, screening, landscaping, points of ingress-egress, and any appropriate information must be submitted with the application for the Conditional Use.

The character of the surrounding area is that of an undeveloped and just developing single-family residential neighborhoods, on what is now the northeast edge of the city. The site and its subdivision are just beginning to be graded and Mainsgate Street, which the site has access onto, is undeveloped. All of the surrounding properties are zoned "SF-5" with "RR" Rural Residential zoned properties north and northeast of it to the end of the county. South of the site, 1/4-1/2 mile to 21st Street North, there are two large churches, one with educational facilities, (Messiah Baptist and Church of the Magdalen), a private school (Trinity Academy), medical (the Wichita Clinic) and some recently developed "LC" zoned properties.

The attached site plan shows a 30-foot (x) 60-foot swimming pool, with 9 parking spaces (including one ADA designated space) located between the pool and Mainsgate Street, a 'pool-mechanical' building, a general playground area and some contours. Per Art. IV, Section IV-A.4 of the UZC, the site does not meet the minimum required parking spaces for a neighborhood/private pool. Required parking for this neighborhood pool without a clubhouse 18 spaces. The applicant has applied for a variance, to reduce the required parking. The site plan does not show screening, as required per Art. IV, Section IV-B. 3a of the UZC, which requires screening along the south, west and east sides of the site. The site plan does not show lighting or trash receptacles. Landscaping must be per the Landscape Ordinance.

CASE HISTORY: The subject property is part of the Fairmont Addition, which was recorded February 21, 2002. The applicant will have to make application to vacate the Fairmont's plat's text to allow the additional use of a pool and its associated uses in this portion of Reserve B. This case is also associated with BZA2006-00065, a variance on the parking requirements for the neighborhood pool and its associated uses.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5", "RR"	Undeveloped single-family residences, rural county
EAST: "SF-5"	Drainage, developing single-family residences
SOUTH: "SF-5"	Undeveloped single-family residences, churches, school
WEST: "SF-5"	Developing & undeveloped single-family residences

PUBLIC SERVICES: The subject property has access to Mainsgate Street, a platted two-lane residential street that is currently not developed. Water, sewer, and other municipal services are available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Urban Residential" development. This residential category reflects the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle schools, churches, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The proposed neighborhood swimming pool is consistent with the Functional Land Use Guide.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. The site shall be developed in general conformance with an approved site plan, which shall conform to the Landscape Ordinance and screening shall be provided in accordance with Section IV-B.3.a. of the Unified Zoning Code. The site /landscape plan must be approved by the Planning Director prior to the issuance of a building permit.
2. Prior to the issuance of a building permit, the applicant shall apply for a vacation of the Fairmont plat's text to allow the additional use of a neighborhood pool and its associated uses, in the described portion of Reserve B.

3. Prior to the issuance of a building permit, the applicant shall resolve the lack of required parking by a variance or an administrative adjustment.
4. Development and use of the subject property for a neighborhood swimming pool and associated uses shall be in accordance with all applicable federal, state, and local rules and regulations, including building and construction codes, health codes, and operational standards. This includes approval by the Environmental Services Department for a neighborhood pool.
5. Ownership and maintenance of the pool and its associated uses shall be the homeowners association of the addition.
6. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is that of an undeveloped and developing single-family residential neighborhood on the northeast most edge of the city. All of the surrounding properties are zoned "SF-5" or "RR". A neighborhood swimming pool is accessory to and customarily associated with the zoning, uses, and character of an urban residential area.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: Locating a neighborhood swimming pool within a residential development will introduce more traffic and noise for the nearby residential properties. However, the recommended conditions of approval pertaining to screening and landscaping should address these problems. The proposed neighborhood swimming pool most likely will be an amenity to the neighborhood.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Urban Residential" development. This residential category provides single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly as well as elementary and middle schools, churches, churches, playgrounds, parks and other similar residential-serving uses. One of the objectives of the Comprehensive Plan is to "develop and maintain a system of parkland, open space and recreational facilities which provide a diverse set of recreational opportunities for existing and future residents." The proposed neighborhood swimming pool is consistent with the Functional Land Use Guide and the identified objective of the Comprehensive Plan.
4. Impact of the proposed development on community facilities: The proposed swimming pool will increase trips to the site, but the impact should be minimal and will not exceed the capacity of the street.

HILLMAN requested an aerial view of the case before making a motion and staff complied.

MOTION: To approve, subject to staff recommendation.

HILLMAN moved, **DOWNING** seconded the motion and it carried (10-0)

-
10. **Case No.: DER 2006-12** - The City of Valley Center seeks annexation of various tracts of land located adjacent to the City of Valley Center – Resolution No. 508-06

Background: On July 18, 2006, the City of Valley Center passed Resolution No. 508-06 authorizing a public hearing on September 19, 2006 for the purposes of considering the unilateral annexation of 22 tracts of lands located adjacent to the City of Valley Center. All proposed annexation areas fall within the Valley Center 2030 Urban Growth Area as designated within the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Metropolitan Area Planning Commission and the Board of County Commission in May 2005.

Prior to unilaterally annexing property, Kansas statutes require that a plan be prepared indicating the means by which city services will be extended to the area proposed for annexation. The City of Valley Center has not submitted to the MAPD, a copy of the service plan describing the extension of services to the annexation areas.

Analysis: Kansas statutes governing unilateral annexations provide for official notification to certain local officials, including planning commissions having jurisdiction in the area. Additionally, Kansas statutes require that the planning commission review the proposal and make a finding of compatibility or incompatibility with any adopted land use or comprehensive plans related to the area and the annexing city.

After review by staff, it has been concluded that the proposed annexation areas adjacent to the Valley Center city limits are compliant with the intent of the Wichita-Sedgwick County Comprehensive Plan.

Recommended Action: That the Metropolitan Area Planning Commission find the unilateral annexation proposed by Resolution No. 508-06 of the City of Valley Center to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

Attachments: Attachment No. 1 - Resolution No. 508-06 and map.
Attachment No. 2 - 2030 Urban Growth Areas Map, May 2005.

DAVE BARBER, Planning Staff, presented the staff report.

BARBER explained that staff was requesting that the MAPC find that the application is consistent with Wichita-Sedgwick County Comprehensive Plan.

HENTZEN requested clarification that Valley Center had not submitted a copy of a service plan to MAPD?

BARBER said technically the plan does not have to be submitted to MAPD for review. He said they do need to prepare a plan and make it available for public viewing.

HENTZEN also asked if this document affected any of the discussion that took place at the Advanced Plans Committee this morning concerning small city "areas of Influence"?

BARBER responded "no".

MITCHELL commented that he would not support the proposal if Valley Center has not submitted a service plan to MAPD.

MOTION: To confirm that the request is consistent with the Wichita-Sedgwick County Comprehensive Plan.

McKAY moved, **HILLMAN** seconded the motion and it carried (8-2). **MITCHELL** and **HENTZEN** opposed.

The Metropolitan Area Planning Department informally adjourned at 3:50 pm.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2006.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)